IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.MC.No. 2980 of 2007()

CC.495/2007 of J.F.C.M-I, PERINTHALMANNA
CRIME NO.44/2007 OF KOLATHUR POLICE STATION

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PETITIONER: ACCUSED NO.2

BALAKRISHNAN @ BALAN
S/O. NAMBODARAN,,MANGAMADATHIL HOUSE,
THRIKKALANGODE,MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECT OF POLICE,
KOLATHUR POLICE STATION-THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM,KOCHI-31.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/09/2007 ALONG WITH CRL.M.C.NO.2981/2007. THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.2980 & 2981 of 2007

Dated this the 26th day of September 2007

O R D E R

The petitioner faces indictment in two separate prosecutions both under Sections 379 and 411 read with 341 I.P.C. According to the petitioner, he had no knowledge of the proceedings. Investigation is complete. Final report has been filed. Cognizance has been taken. Consequent to non-appearance of the petitioner, the learned Magistrate has initiated coercive proceedings against the petitioner. The petitioner finds warrants of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned

Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner undertakes that the petitioner shall appear before the learned Magistrate on or before 8/10/2007. In the peculiar facts and circumstances of this case, there shall be a direction that the warrants of arrest issued against the petitioner shall not be executed till that date.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007